

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DARREN HEYMAN,

VS.

STATE OF NEVADA EX REL. BOARD OF
REGENTS OF THE NEVADA SYSTEM OF
HIGHER EDUCATION ON BEHALF OF
UNIVERSITY OF NEVADA, LAS VEGAS, et al.

Defendant.

BACKGROUND

1 not adequately meet and confer prior to filing the motion. Defendants further argue that Plaintiff's
2 discovery requests regarding sexual history or use of alcohol are not relevant.

3 DISCUSSION

4 Rule 37 of the Federal Rules of Civil Procedure allows a party to move for an order
5 compelling discovery and requires certification that the movant has "in good faith conferred or
6 attempted to confer with the person or party failing to make the discovery in an effort to secure the
7 information or material without court action." Fed. R. Civ. P. 37(a)(2)(B). There are two
8 components to the meet and confer requirement of Rule 37 that must be met. *Shuffle Master, Inc. v.*
9 *Progressive Games, Inc.*, 170 F.R.D. 166, 170 (D. Nev. 1996). First, the moving party must provide
10 a certification that "accurately and specifically conveys to the court who, where, how, and when the
11 respective parties attempted to personally resolve the discovery dispute." *Id.* This is generally
12 accomplished by the attachment of an affidavit certifying such. *Taylor v. Aria Resort & Casino, LLC*,
13 No. 2:11-CV-01360-KJD, 2013 WL 2355462, at *3 (D. Nev. May 29, 2013). Second, the moving
14 party must actually confer or attempt to confer in good faith. *Shuffle Master*, 170 F.R.D. at 170. A
15 good faith attempt requires more than the "perfunctory parroting of statutory language," it requires a
16 "genuine attempt to resolve the discovery dispute through non judicial means." *Id.* at 171. LR 26-
17 7(c) also requires good-faith meet and confer efforts and a declaration setting forth the details of such
18 efforts.

19 In his declaration, Plaintiff was required to set forth essential facts to enable the court to pass a
20 preliminary judgment on the adequacy and sincerity of the good faith conferment between the parties.
21 Plaintiff provided only a cursory review of the meet and confer efforts between the parties in his
22 motion. Although it appears the parties have made two attempts to resolve this dispute, there is
23 disagreement regarding the breakdown of communication between the parties and the extent of the
24 topics discussed. Defendants represent that the parties did not meet and confer on all of the topics
25 that are in dispute. Based upon the emails attached to each parties' briefs and considering the extent
26 of the requests, it is unlikely that the parties were able to meaningfully discuss each discovery dispute.
27 Therefore, Plaintiff fails to provide adequate certification regarding the parties' meet and confer
28 efforts and the Court does not have sufficient information to determine the adequacy of the meet and

1 confer attempts.

2 LR 26-7(b) requires the moving party “to set forth in full the text of the discovery originally
3 sought and any response to it.” The burden is on Plaintiff to demonstrate that he is entitled to relief.
4 *Agarwal v. Oregon Mut. Ins. Co.*, No. 2:11-CV-01384-LDG, 2013 WL 211093, at *3 (D. Nev. Jan.
5 18, 2013). Generally, it is insufficient to merely attach voluminous discovery requests and responses
6 as exhibits to satisfy the requirements of LR 26-7(b). *Taylor*, 2013 WL 2355462 at *4. This
7 essentially shifts the burden to the Court to sift through and root for issues that should be clear on the
8 face of a discovery motion. *Id.*

9 Here, Plaintiff has simply attached more than 300 pages of propounded discovery and
10 responses as exhibits. Although Plaintiff broadly discusses the categories of the information sought,
11 he fails to adequately link his arguments to specific discovery requests. This is not sufficient to allow
12 the Court to evaluate whether the information sought is relevant and discoverable and whether the
13 responses are sufficient or require supplementation. The Court, therefore, denies Plaintiff’s motions
14 for failure to comply with LR 26-7(b), (c), and Rule 37 of the Federal Rules of Civil Procedure.
15 Accordingly,

16 **IT IS HEREBY ORDERED** that Plaintiff’s Motion to Compel (ECF No. 134) and Second
17 Motion to Compel (ECF No. 145) are **denied**, without prejudice.

18 DATED this 2nd day of June, 2017.

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21 GEORGE FOLEY, JR.
22 United States Magistrate Judge
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